# Chapter 1 — Colorado's Adult Sentencing Laws This chapter provides an overview of sentencing law since 1979 in Colorado, and outlines what sentencing laws require of judges. The sentencing of offenders is at the discretion of the judge (within statutory parameters) after conviction. Colorado's sentencing laws are complex and have varying levels of application for various types of offenses. This chapter focuses on the variables which affect the sentence handed down by a judge. Once an offender has entered prison, the sentence may subsequently be reduced by earned time. However, earned time is applied post-sentence only for the purpose of determining a parole eligibility date. Further, earned time does not change or reduce the sentence handed down by the sentencing court, it reduces the time served in prison. Earned time is described in greater detail in the Legislative Council Staff research publication number 513, An Overview of Community-based Corrections in Colorado, January 2003. This chapter highlights the following: • sentencing ranges; special sentencing categories; and habitual offender sentences.

#### SENTENCING RANGES

From the late 1970s through the early 1990s, Colorado's sentencing laws changed frequently and sometimes dramatically. The sentencing scheme underwent the most drastic changes in 1979 and then again in 1985. These changes appear to have had the greatest impact on the prison population. Other important changes to the sentencing scheme occurred in 1989 and 1993.

Figure 1.1 is a side-by-side comparison of the various sentencing schemes from 1979 through current law.

Felo	ny Class	Pre-1979	1979	1985	1989	1993 (current law in 2006)
	Minimum	Life	Life	Life	Life	Life
1	Maximum	Death	Death	Death	Death	Death
_	Minimum	10 years	8 years	8 years	8 years	8 years
	Maximum	50 years	12 years	24 years	24 years	24 years
3	Minimum	5 years	4 years	4 years	4 years	4 years
3	Maximum	40 years	8 years	16 years	16 years	12 years
_	Minimum	1 day	2 years	2 years	2 years	2 years
4	Maximum	10 years	4 years	8 years	8 years	6 years
5	Minimum	1 day	1 year	1 year	1 year	1 year
5	Maximum	5 years	2 years	4 years	4 years	3 years
6	Minimum	NA	NA	NA	1 year	1 year
6	Maximum	NA	NA	NA	2 years	18 months

Figure 1.1: Felony Class Presumptive Ranges

NA: Not applicable.

Note: The class 6 felony did not exist until 1989.

The following sections summarize Colorado's sentencing law prior to 1979, and major changes to sentencing laws in 1979, 1985, 1989, and 1993.

Sentencing prior to July 1, 1979. Convicted offenders sentenced for a crime committed prior to July 1, 1979, were sentenced under an "indeterminate" sentencing scheme. Under indeterminate sentencing, judges had discretion in sentencing an offender within a broad range set forth in law, depending on that offender's criminal history and the circumstances of the particular crime for which the offender was convicted. This judicial discretion resulted in widely divergent sentences handed down to offenders convicted of similar crimes.

*House Bill 79-1589.* In 1979, the General Assembly went to a presumptive or "determinate" sentencing scheme by adopting H.B. 79-1589 (Representative Gorsuch). Under this determinate sentencing schedule, presumptive ranges for each felony class were more narrowly defined. The new determinate sentencing ranges under H.B. 79-1589 resulted in less divergent sentences handed down for similar offenses. More narrowly defined presumptive ranges also resulted in longer minimum sentences and shorter maximum sentences.

House Bill 85-1320. By 1985, "tough on crime" sensibilities focused nationwide attention on crime. Because of the perception that shorter sentences under Colorado's relatively new determinate sentencing scheme were to blame for an increase in crime in Colorado, the General Assembly adopted H.B.85-1320 (Representative Mielke). Under H.B.85-1320, the maximum sentence in the presumptive range was doubled for all felony classes. This doubling of the maximum sentence was the first step towards restoring the broad sentencing ranges of indeterminate sentencing in Colorado.

Senate Bill 89-246. Doubling the maximum sentence in the presumptive range for all felony classes resulted in increased prison populations and prison overcrowding. One strategy upon which the General Assembly agreed to deal with this problem was to adopt S.B. 89-246 (Senator Wells) which added a new felony class, the class 6 felony. The addition of the new class 6 felony, with shorter sentences in the presumptive range, was intended to result in shorter prison sentences for certain crimes which would, in turn, alleviate prison overcrowding. In order to accommodate the new class 6 felony, some class 4 felonies were reduced to class 5 felonies and in turn, some class 5 felonies became class 6 felonies.

House Bill 93-1302. The most recent major change to the sentencing structure in Colorado was in 1993. Continually increasing prison populations resulted in unprecedented growth in prison construction. In an effort to deal with both the prison population and the prison construction issues, the General Assembly adopted H.B. 93-1302 (Representative Tucker). House Bill 93-1302 reduced by 25 percent the maximum sentence in the presumptive range for class 3, 4, 5, and 6 felonies. House Bill 93-1302 also created a special sentencing category of crimes presenting an extraordinary risk of harm to society. The maximum sentence in the presumptive range for class 3 through 6 felonies was not reduced for these crimes which are discussed later in this chapter.

#### SPECIAL SENTENCING CATEGORIES

The presumptive ranges specified in the previous section are the base from which judges calculate sentences. However, since 1979, the General Assembly has adopted several special sentencing categories which require longer sentences for offenders convicted of certain more serious crimes. Sentences in these special sentencing categories are intended to provide for longer sentences outside of the presumptive range, for particularly violent crimes or when certain circumstances are present for the crime or the offender. Sentences in these special sentencing categories have, in some instances, the effect of bringing sentencing in Colorado full circle from indeterminate sentencing to determinate sentencing and back to indeterminate sentencing again. There are five special sentencing categories as follows (a listing of the elements of each of these special sentencing categories follows Figure 1.2):

- crimes with extraordinary mitigating or aggravating circumstances;
- crimes of violence;
- crimes with extraordinary aggravating circumstances;
- crimes with sentence-enhancing circumstances; and
- crimes presenting an extraordinary risk of harm to society.

Figure 1.2 is a history of sentencing ranges for special sentencing categories. This table illustrates the year each special sentencing category was adopted by the General Assembly. This table also illustrates how the presumptive sentencing ranges have changed over the years.

Figure 1.2: History of Sentencing Ranges for Special Sentencing Categories

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1979 Normal Presumptive Ranges	8 to 12 years	4 to 8 years	2 to 4 years	1 to 2 years	NA
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	NA
Crime of Violence	8-year min. for violent crimes	4-year min. for violent crimes	2-year min. for violent crimes	1-year min. for violent crimes	NA
1981 Normal Presumptive Ranges	8 to 12 years	4 to 8 years	2 to 4 years	1 to 2 years	NA
Extraordinary Mitigating or Aggravating Circumstances	4 to 24 years	2 to 16 years	1 to 8 years	6 months to 4 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	12 to 24 years	8 to 16 years	4 to 8 years	2 to 4 years	NA
1985 Normal Presumptive Ranges	8 to 24 years	4 to 16 years	2 to 8 years	1 to 4 years	NA
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	24 to 48 years	16 to 32 years	8 to 16 years	4 to 8 years	NA
1988 Normal Presumptive Ranges	8 to 24 years	4 to 16 years	2 to 8 years	1 to 4 years	NA
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	NA
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	NA
1989 Normal Presumptive Ranges	8 to 24 years	4 to 16 years	2 to 8 years	1 to 4 years	1 to 2 years
Extraordinary Mitigating or Aggravating Circumstances	4 to 48 years	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	10 to 32 years	5 to 16 years	2.5 to 8 years	18 months to
				,	4 years
1990 Normal Presumptive Ranges	8 to 24 years	4 to 16 years	2 to 8 years	1 to 4 years	4 years  1 to 2 years
Extraordinary Mitigating or Aggravating Circumstances	8 to 24 years 4 to 48 years	4 to 16 years 2 to 32 years	2 to 8 years 1 to 16 years	·	1 to 2 years 6 months to 4 years
Extraordinary Mitigating or Aggravating	,			1 to 4 years 6 months to	1 to 2 years 6 months to
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating	4 to 48 years	2 to 32 years	1 to 16 years	1 to 4 years 6 months to 8 years	1 to 2 years 6 months to 4 years 18 months to
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating Circumstances/Crime of Violence	4 to 48 years 16 to 48 years	2 to 32 years 10 to 32 years	1 to 16 years 5 to 16 years	1 to 4 years 6 months to 8 years 2.5 to 8 years	1 to 2 years 6 months to 4 years 18 months to 4 years
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating Circumstances/Crime of Violence Sentence-Enhancing Circumstances  1993 Normal Presumptive Ranges	4 to 48 years 16 to 48 years 8 to 48 years	2 to 32 years 10 to 32 years 4 to 32 years	1 to 16 years 5 to 16 years 2 to 16 years	1 to 4 years 6 months to 8 years 2.5 to 8 years 1 to 8 years 1 to 3 years 6 months to 6 years	1 to 2 years 6 months to 4 years 18 months to 4 years 1 to 4 years 1 year to 18 months 6 months to 3 years
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating Circumstances/Crime of Violence Sentence-Enhancing Circumstances  1993 Normal Presumptive Ranges (current law in 2006)  Extraordinary Mitigating or Extraordinary	4 to 48 years 16 to 48 years 8 to 48 years 8 to 24 years	2 to 32 years 10 to 32 years 4 to 32 years 4 to 12 years	1 to 16 years 5 to 16 years 2 to 16 years 2 to 6 years	1 to 4 years 6 months to 8 years 2.5 to 8 years 1 to 8 years 1 to 3 years 6 months to	1 to 2 years 6 months to 4 years 18 months to 4 years 1 to 4 years 1 year to 18 months 6 months to
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating Circumstances/Crime of Violence Sentence-Enhancing Circumstances  1993 Normal Presumptive Ranges (current law in 2006)  Extraordinary Mitigating or Extraordinary Aggravating Circumstances	4 to 48 years 16 to 48 years 8 to 48 years 8 to 24 years 4 to 48 years	2 to 32 years 10 to 32 years 4 to 32 years 4 to 12 years 2 to 24 years	1 to 16 years 5 to 16 years 2 to 16 years 2 to 6 years 1 to 12 years	1 to 4 years 6 months to 8 years 2.5 to 8 years 1 to 8 years 1 to 3 years 6 months to 6 years 6 months to	1 to 2 years 6 months to 4 years 18 months to 4 years 1 to 4 years 1 to 4 years 1 year to 18 months 6 months to 3 years 6 months to 4 years 15 months to 3 years
Extraordinary Mitigating or Aggravating Circumstances Extraordinary Aggravating Circumstances/Crime of Violence Sentence-Enhancing Circumstances  1993 Normal Presumptive Ranges (current law in 2006)  Extraordinary Mitigating or Extraordinary Aggravating Circumstances  Extraordinary Risk of Harm to Society  Extraordinary Aggravating	4 to 48 years 16 to 48 years 8 to 48 years 8 to 24 years 4 to 48 years NA	2 to 32 years 10 to 32 years 4 to 32 years 4 to 12 years 2 to 24 years 2 to 32 years	1 to 16 years 5 to 16 years 2 to 16 years 2 to 6 years 1 to 12 years 1 to 16 years	1 to 4 years 6 months to 8 years 2.5 to 8 years 1 to 8 years 1 to 3 years 6 months to 6 years 6 months to 8 years	1 to 2 years 6 months to 4 years 18 months to 4 years 1 to 4 years 1 to 4 years 1 year to 18 months 6 months to 3 years 6 months to 4 years 15 months to

Source: Legislative Council Staff

NA: Not applicable.

Note: The class 6 felony classification did not exist until 1989, and the Extraordinary Risk of Harm to Society category does not apply to class 2 felonies. Minimum and maximum sentences for Class 1 felonies, life and death, respectively, are not included in figures 1.2 through 1.7 since those sentences have not changed during the time period covered.

### Extraordinary Mitigating or Aggravating Circumstances (Section 18-1.3-401 (6), C.R.S.)

The court may impose a sentence that is lesser or greater than those in the presumptive range when the court finds that extraordinary mitigating or aggravating circumstances are present. Aggravating or mitigating factors may be determined by the court based on evidence in the record at the sentencing hearing and information contained in the presentence investigation report. The court may not impose a sentence which is less than one-half of the minimum sentence in the presumptive range, and may not impose a sentence that is not more than twice the maximum in the presumptive range. The minimum and maximum sentencing ranges allowed after applying extraordinary mitigating or aggravating circumstances are in Figure 1.3.

Class 2 Class 3 Class 4 Class 5 Class 6 **Felony Felony** Felony **Felony** Felony 1993 Normal Presumptive Ranges 1 year to (current law in 2006) 8 to 24 years 4 to 12 years 2 to 6 years 1 to 3 years 18 months Extraordinary Mitigating or Aggravating 6 months to 6 months to 1 to 12 years 4 to 48 years 2 to 24 years Circumstances 6 years 3 years

Figure 1.3 — Sentences for Extraordinary Mitigating or Aggravating Circumstances

# Crime of Violence (Section 18-1.3-406, C.R.S.)

Any offender convicted of a crime of violence must be sentenced to a prison term which is at least at the midpoint in the presumptive range but not more than twice the maximum term. The following offenses which are committed, conspired to be committed, or attempted to be committed are specified in statute as crimes of violence when a person: (a) used, or possessed and threatened the use of, a deadly weapon; or (b) caused serious bodily injury or death. *These crimes of violence are contained within the following special sentencing categories: crimes with extraordinary aggravating circumstances and crimes presenting an extraordinary risk of harm to society:* 

- a crime against an at-risk adult or at-risk juvenile;
- murder:
- first or second degree assault;
- kidnapping;
- a sexual offense;
- aggravated robbery;
- first degree arson;
- first or second degree burglary;
- escape;
- criminal extortion; or
- any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

The sentencing ranges for an offender convicted of a crime of violence are in Figure 1.4.

Class 2 Class 3 Class 4 Class 5 Class 6 **Felony Felony** Felony **Felony** Felony 1993 Normal Presumptive Ranges 1 year to 8 to 24 years 4 to 12 years 2 to 6 years 1 to 3 years 18 months (current law in 2006) 15 months to 16 to 48 years 2 to 6 years Crime of Violence 8 to 24 years 4 to 12 years 3 years

Figure 1.4 — Sentences for Crimes of Violence

## Extraordinary Aggravating Circumstances (Section 18-1.3-401 (8), C.R.S.)

An offender convicted of a crime with extraordinary aggravating circumstances must be sentenced to a term of at least the midpoint in the presumptive range but not more than twice the maximum term. Offenders committing offenses under the following scenarios are charged with a crime which has extraordinary aggravating circumstances:

- the defendant is convicted of a Section 18-1.3-406, C.R.S., crime of violence (see page 6 for a listing of these crimes);
- the defendant was on parole for another felony at the time he or she committed the felony offense;
- the defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony when he or she committed the felony offense;
- the defendant was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony when he or she committed the felony offense;
- the defendant was on appeal bond when he or she committed the felony offense following a conviction for a previous felony; or
- the defendant is less than 18 years of age and, at the time he or she committed the offense, was on probation for or on bond while awaiting sentencing following revocation of probation for another offense that would have been a felony if committed by an adult.

The sentencing ranges for an offender convicted of a crime with extraordinary aggravating circumstances are in Figure 1.5.

Figure 1.5 — Sentences for Extraordinary Aggravating Circumstances

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1993 Normal Presumptive Ranges (current law in 2006)	8 to 24 years	4 to 12 years	2 to 6 years	1 to 3 years	1 year to 18 months
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	8 to 24 years	4 to 12 years	2 to 6 years	15 months to 3 years

## Sentence-Enhancing Circumstances (Section 18-1.3-401 (9), C.R.S.)

Offenders convicted of a crime with sentence-enhancing circumstances are required to serve a sentence which is at least the minimum in the presumptive range but not more than twice the maximum in the presumptive range. Following are sentence-enhancing circumstances:

- the defendant was charged with or was on bond for a previous felony (or for a delinquent act that would have constituted a felony if committed by an adult) when he or she committed the felony (or delinquent act) and the defendant was subsequently convicted of the felony (or delinquent act);
- when the defendant committed the felony, he or she was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;
- the defendant was under a deferred judgement and sentence for another felony when he or she committed the felony;
- the defendant is less than 18 years of age and, at the time he or she committed the felony, was on bond for having pled guilty to a lesser offense when the original offense charged was an offense that would have constituted a felony if committed by an adult;
- the defendant is less than 18 years of age and, when he or she committed the felony, was under a deferred judgement and sentence for another offense that would have constituted a felony if committed by an adult; or
- when the defendant committed the felony, he or she was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

Sentence ranges for offenders convicted of crimes with sentence-enhancing circumstances are in Figure 1.6.

Figure 1.6 — Sentences for Sentence-Enhancing Circumstances

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1993 Normal Presumptive Ranges (current law in 2006)	8 to 24 years	4 to 12 years	2 to 6 years	1 to 3 years	1 year to 18 months
Sentence-Enhancing Circumstances	8 to 48 years	4 to 24 years	2 to 12 years	1 to 6 years	1 to 3 years

## Crimes Presenting an Extraordinary Risk of Harm to Society (Section 18-1.3-401 (10), C.R.S.)

Sentences for offenders convicted of crimes presenting an extraordinary risk of harm to society are increased as follows:

- the maximum sentence in the presumptive range is increased by four years for class 3 felonies:
- the maximum sentence in the presumptive range is increased by two years for class 4 felonies;
- the maximum sentence in the presumptive range is increased by one year for class 5 felonies:
- the maximum sentence in the presumptive range is increased by six months for class 6 felonies; and
- the maximum sentence for misdemeanors is increased by six months.

Felony offenses which present an extraordinary risk of harm to society include the following:

- aggravated robbery;
- child abuse;
- unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense;
- any Section 18-1.3-406, C.R.S., crime of violence (see page 6 for a listing of these crimes);
- · stalking; and
- sale or distribution of materials to manufacture controlled substances.

Misdemeanor crimes which present an extraordinary risk of harm to society include the following (Section 18-1.3-501 (3), C.R.S.):

- third degree assault;
- class 1 misdemeanor sexual assault where the victim is at least 15 years old but less than 17 years old and the actor is at least ten years older than the victim and not the victim's spouse;
- class 1 misdemeanor unlawful sexual contact;
- knowing or reckless child abuse resulting in injury other than serious bodily injury;
- violation of a protection order (second and subsequent offenses):
- class 1 misdemeanor failure to register as a sex offender.

Presumptive sentence ranges for crimes presenting an extraordinary risk of harm to society apply to all class 2 through class 6 special sentencing categories and are listed in Figure 1.7.

Figure 1.7 — Sentences for Crimes Presenting an Extraordinary Risk of Harm to Society

	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1993 Normal Presumptive Ranges (current law in 2006)	8 to 24 years	4 to 12 years	2 to 6 years	1 to 3 years	1 year to 18 months
Extraordinary Mitigating or Extraordinary Aggravating Circumstances	4 to 48 years	2 to 24 years	1 to 12 years	6 months to 6 years	6 months to 3 years
Extraordinary Risk of Harm to Society with Extraordinary Mitigating or Extraordinary Aggravating Circumstances	NA NA	2 to 32 years	1 to 16 years	6 months to 8 years	6 months to 4 years
Extraordinary Aggravating Circumstances/Crime of Violence	16 to 48 years	8 to 24 years	4 to 12 years	2 to 6 years	15 months to 3 years
Extraordinary Risk of Harm to Society with Extraordinary Aggravating Circumstances/ Crime of Violence	NA	10 to 32 years	5 to 16 years	30 months to 8 years	18 months to 4 years
Sentence-Enhancing Circumstances	8 to 48 years	4 to 24 years	2 to 12 years	1 to 6 years	1 to 3 years
Extraordinary Risk of Harm to Society with Sentence-Enhancing Circumstances	NA	4 to 32 years	2 to 16 years	1 to 8 years	1 to 4 years

## **HABITUAL OFFENDER STATUTES**

Sentencing for habitual offenders bypasses the presumptive sentencing ranges and requires judges to sentence habitual offenders to a determinate sentence that is significantly higher than the maximum in the felony class presumptive ranges.

Since 1979, the habitual offender statute has evolved from two levels of habitual offenders — the "little habitual" and the "big habitual" — to four levels of habitual offenders today: the "little habitual;" the "big habitual;" the "bigger habitual;" and the "three strikes you're out" habitual.

Figure 1.8 summarizes the major changes in the habitual offender statutes since 1979. Sentencing under the habitual offender statutes has not been amended since 1994.

Class 1 Class 2 Class 3 Class 4 Class 5 Class 6

Figure 1.8: Habitual Offender Sentencing Ranges

	Class 1 Felony	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1979 Normal Presumptive				,	,	
Ranges	Life to Death	8 to 12 years	4 to 8 years	2 to 4 years	1 to 2 years	NA
Little Habitual (3rd conviction)	Life	25 to 50 years	25 to 50 years	NA	NA	NA
Big Habitual (4th conviction)	Life	Life	Life	Life	Life	NA
1985 Normal Presumptive						
Ranges	Life to Death	8 to 24 years	4 to 16 years	2 to 8 years	1 to 4 years	NA
Little Habitual (3rd conviction)	Life	25 to 50 years	25 to 50 years	25 to 50 years	NA	NA
Big Habitual (4th conviction)	Life	Life	Life	Life	Life	NA
1993 Normal Presumptive						1 year to
Ranges	Life to Death	8 to 24 years	4 to 12 years	2 to 6 years	1 to 7 years	18 months
Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	NA
Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
Bigger Habitual (5th conviction)	Life	Life	Life	Life	Life	Life
1994 Normal Presumptive						1 year to
Ranges (current law in 2006)	Life to Death	8 to 24 years	4 to 12 years	2 to 6 years	1 to 3 years	18 months
Little Habitual (3rd conviction)	Life	72 years	36 years	18 years	9 years	NA
Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years
Bigger Habitual (violent 5th conviction)	Life	Life	Life	Life	Life	Life
"Three Strikes You're Out" Habitual (3rd conviction of class 1, 2, or 3/violent felonies)	Life	Life	Life (only class 3 felonies which are crimes of violence)	NA	NA	NA

NA: Not Applicable.

Following is a brief explanation of when and how each of these habitual sentences applies.

The "little habitual." Offenders convicted of a class 1, 2, 3, 4, or 5 felony who, within ten years of the date of the commission of the offense, have twice previously been convicted of a felony in Colorado, another state, or in federal court are adjudicated habitual offenders under the little habitual statute. The sentencing court is required to sentence such offenders to a term of imprisonment which is three times the maximum of the presumptive range for the felony class for which the person is convicted. The General Assembly chose not to apply the little habitual to class 6 felonies. Sentencing under the little habitual statute is in Figure 1.9.

Class 1 Class 2 Class 3 Class 4 Class 5 Class 6 **Felony Felony Felony** Felony **Felony Felony** 1994 Normal Presumptive 1 year to Life to Death 8 to 24 years 4 to 12 years 2 to 6 years 1 to 3 years 18 months Ranges (current law in 2006) Little Habitual (3rd conviction) Life 72 years 36 years 18 years 9 years NA

Figure 1.9 — Sentencing Under the Little Habitual Statute

The "big habitual." Offenders convicted of a fourth felony, regardless of the felony class, in Colorado, another state, or in federal court are adjudicated habitual offenders under the big habitual statute. The sentencing court is required to sentence such offenders to a term of imprisonment which is four times the maximum in the presumptive range for the class of felony for which the person is convicted. Sentencing under the big habitual statute is in Figure 1.10.

	Class 1 Felony	Class 2 Felony	Class 3 Felony	Class 4 Felony	Class 5 Felony	Class 6 Felony
1994 Normal Presumptive Ranges (current law in 2006)	Life to Death	8 to 24 years	4 to 12 years	2 to 6 years	1 to 3 years	1 year to 18 months
Big Habitual (4th conviction)	Life	96 years	48 years	24 years	12 years	6 years

Figure 1.10 — Sentencing Under the Big Habitual Statute

The "bigger habitual." Any offender convicted and sentenced under the big habitual statute, who is subsequently convicted of a felony which is a crime of violence as defined by Section 18-1.3-406, C.R.S., is adjudicated an habitual offender under the bigger habitual statute. Offenders convicted of the bigger habitual are to be sentenced to a term of life imprisonment. Offenders sentenced to life imprisonment under this provision are ineligible for parole until serving at least 40 calendar years.

The "three strikes you're out" habitual. This level of habitual offender applies to offenders convicted of a third class 1, 2, or 3 felony which is a crime of violence as defined in Section 18-1.3-406, C.R.S. Such offenders are to be adjudicated an habitual offender and are to be sentenced to a term of life imprisonment. Offenders sentenced under the three strikes provisions are ineligible for parole until serving at least 40 calendar years.

Figure 1.4 lists all of the ranges for normal presumptive sentencing, special sentencing categories, habitual offender sentencing, and for parole.

Figure 1.11: Colorado Sentencing Law in 2006

Felony Class of Crime	Normal Presumptive Range 18-1,3-401 (1) (a) (V) (A)	Extraordinary Aggravating or Mitigating Circumstances 18-1.3-401 (6)	Sentence Enhancing Circumstances 18-1.3-401 (9)	Extraordinary Aggravating Circumstances 18-1.3-401 (8)/ Crime of Violence 18-1.3-406	Little Habitual 18-1.3-801 (1.5)	Big Habitual 18-1.3-801 (2)	Mandatory Parole 18-1.3-401 (1) (a) (V) (A)
Class 2	8 - 24 yrs	4 - 48 yrs	8 - 48 yrs	16 - 48 yrs	72 yrs	96 yrs	5 yrs
Class 3	4 - 12	2 - 24	4 - 24	8 - 24	36	48	5
Class 3 (Extraordinary Risk of Harm 18-1.3-401 (10))	4 - 16	2 - 32	4 - 32	10 - 32	48	64	5
Class 4	2-6	1 - 12	2 - 12	4 - 12	18	24	3
Class 4 (Extraordinary Risk of Harm)	2-8	1 - 16	2 - 16	5 - 16	24	32	3
Class 5	1-3	6 mos - 6 yrs	1 - 6	2-6	9	12	2
Class 5 (Extraordinary Risk of Harm)	1 - 4	6 mos - 8 yrs	1 - 8	2.5 - 8 yrs	12	16	2
Class 6	1 yr - 18 mos	6 mos - 3 yrs	1 - 3	15 mos - 3 yrs	NA	9	1
Class 6 (Extraordinary Risk of Harm)	1-2	6 mos - 4 yrs	1-4	18 mos - 4 yrs	NA	8	1

Source: Legislative Council Staff